SELECT JOINT COMMISSION ON MEDICAID OVERSIGHT

Legislative Services Agency
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MEETING MINUTES[1]

Meeting Date: October 19, 2005
Meeting Time: 1:00 P.M.
Meeting Place: State House, 200 W. Washington St., the Senate Chambers
Meeting City: Indianapolis, Indiana
Meeting Number: 4

Members Present: Sen. Patricia Miller, Chairperson; Sen. Gary Dillon; Sen. Rose Antich-Carr; Sen. Billie Breaux; Sen. Vi Simpson; Rep. Timothy Brown; Rep. Mary Kay Budak; Rep. David Frizzell; Rep. Charlie Brown; Rep. William Crawford; Rep. Peggy Welch.

Members Absent: Sen. Robert Meeks.

Chairperson Miller called the meeting to order at 1:12 p.m.

EDS Update

Mr. Dennis Vaughan, EDS, presented the Commission with the most recent Medicaid claim information. See Exhibit 1. Mr. Vaughan stated that the increase in expenditures to nursing homes was a result of the quality assessment fee payments. The Commission requested that the font on the report be increased in order to make the report easier to read.

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[1] Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of $0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is http://www.in.gov/legislative/. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Long Term Care Insurance
Ms. Carol Cutter, Department of Insurance, informed the Commission on the history of Indiana's long term care insurance program. See Exhibit 2 for information on the history of the program. Indiana is part of the "Partnership for Long Term Care Program" which is a public-private partnership that pairs Indiana's Medicaid program with private long term care insurance companies. Indiana is one of only four states (Connecticut, California, and New York are the other three states) to have a long term care insurance program that allows for a Medicaid asset disregard for policyholders who apply for Medicaid assistance. Congress passed legislation in 1993 to prohibit other states from developing similar programs. Legislation has been introduced in the last two Congressional sessions to lift the prohibition. The National Conference of Insurance Legislators has drafted model language based on Indiana's program to guide states in developing a program if the federal prohibition is removed.

Ms. Mary Ann Hack described the demographics of the Indiana Long Term Care Insurance Program. See Exhibit 3. There have been 35,646 long term care insurance policies purchased. The average age of a policy buyer is 62 years old. Seventy-six percent of the sold policies qualify the person for total Medicaid asset protection. Two hundred ninety six policyholders have used some of the insurance policy benefits. The federal government has been conducting long term care financing awareness programs. The Governor's office has declined to participate in the awareness program in 2006 because of the cost but the Governor's office has stated that long term care awareness will still be addressed by Indiana in 2006. In response to a question concerning reciprocity, Ms. Hack informed the Commission that Indiana and Connecticut are the only two states that offer reciprocity for the asset protection piece of long term care insurance program. Chairperson Miller expressed an interest in pursuing expanding the number of long term care insurance policyholders by encouraging state employees and teachers to participate.

Ms. Melissa Durr, Indiana Association of Area Agencies on Aging, informed the Commission of a work group that has been meeting to identify ways to promote long term care insurance as a part of retirement planning. See Exhibit 4. The work group includes representation from the public and private sector, including long term care insurance providers, educators, and representatives of FSSA and the Department of Insurance. A Commission member requested information about the long term care insurance program that could be included in a legislator's newsletter.

Inpatient Reimbursement for Hemophilia Clotting Factor
Ms. Michelle Rice, Executive Director of Hemophilia of Indiana, reminded the Commission that she has testified in prior years about the reimbursement for hemophilia clotting factor and no long term solution has been found. Ms. Rice explained the high cost for blood factor replacement therapy and the low reimbursement rate for the blood factor. Some hospitals have agreed as a short term solution to allow hemophilia patients to bring in the clotting factor to the hospital, however, this poses liability concerns for the hospitals who allow this. Ms. Rice proposed a long term solution of including a pass through payment for reimbursement of the blood factor, similar to what Medicare does for the blood factor.

Mr. Tim Brent, Executive Director of the Indiana Hemophilia and Thrombosis Center, stated that Medicaid's reimbursement for the blood factor is inadequate and asked that the blood factor be reimbursed similar to Medicare-- outside of the diagnostic-related groups (DRGs). Mr. Brent further stated that in return for increased reimbursement for inpatient services, the outpatient reimbursement for the blood factor could be reduced. See Exhibit 5.

Ms. Jeanne Labrecque, Director of Health Policy and Medicaid for FSSA, stated that FSSA is looking for a solution that would keep reimbursement within the DRGs. This drug is not the only drug where FSSA has been asked to reimburse at a rate outside of the DRGs and FSSA is trying to avoid creating multiple mechanisms for reimbursement. FSSA is currently working with its rate setters in addressing this issue by using an outlier in calculating the reimbursement. A question was posed as to whether disproportionate share hospital payments could be used.

Mr. Michael Wyman, Chief Medical Officer at St Vincent's Hospital, explained the financial weight of the care for hemophilia patients. Hospital liability in allowing patients to bring in the blood factor is not as great as the liability for uncompensated care.

Mr. Tim Kennedy, Indiana Hospital and Health Association, reiterated that discussion on this issue has happened for several years now, and that patients bringing in the blood factor is not a long term solution and is being currently treated on a case by case basis. Some hospitals may not be willing to accept this liability. Mr. Kennedy stated that a long term solution is needed for this problem.

The Commission asked to be updated on this issue in the future.

Nursing Facility Assessment and Reimbursement

Ms. Labrecque provided the Commission members with information that the Commission requested concerning the nursing facility assessment at the last meeting. See Exhibit 6. Secretary Roob, FSSA, stated that the Governor's plan to keep Medicaid expenditures limited to a 5% growth rate without cutting eligibility requires difficult choices since the average growth rate is between 10%-12%. Other providers have also been affected, including the recent pharmacy reimbursement changes and the reduction in paperwork and funding for the developmental disabled waiver.

Secretary Roob stated that the legislature's passage of SB 493 in 2003 reflects the legislature's desire to change how long term care money is spent. Indiana has the third highest number of licensed nursing home beds in the country. The nursing homes have received $160 million net as a result of the quality assessment fee. FSSA has asked that nursing home reimbursement be frozen for one year in order to allow the Medicaid program to grow into better fiscal condition. Upon the request from the nursing home associations, FSSA agreed to delay a freeze on reimbursement for one month in order to meet and discuss the issues with the associations. Many of the nursing home associations recognize the state's fiscal problems and have brought ideas to FSSA to generate additional money or curb other costs. However, these ideas have either already been considered by FSSA or the money would not be achieved in this budget year. One nursing home association proposal included using a negative inflation factor in the nursing home reimbursement methodology instead of freezing the reimbursement rate. FSSA is willing to agree to this proposal.

Ms. Labrecque reviewed other information requested by the Commission, including provider reimbursement. See Exhibit 7. One chart reflects various Medicaid providers and when Medicaid reimbursement rates were increased or decreased for the provider group. For example, the physician reimbursement rate was last changed in 1994 and the rate was decreased. According to a New York Times article (see exhibit 7), Indiana is ranked almost last among the states in Medicaid provider reimbursement.

Mr. Jim Leich, Indiana Association of Homes and Services for the Aging, stated that Indiana's nursing home reimbursement mechanism is one of the best in the country but needs stability. Mr. Leich stated that he supports a negative inflation adjustment instead of a reimbursement rate freeze. This option provides more flexibility for FSSA because the inflation rate can be adjusted over time. Also, the negative inflation would affect all nursing homes the same unlike a reimbursement rate freeze which is subject to the date on which the nursing home submits its cost report. In response to a Commission question concerning when the compromise was reached to use a negative inflation, Mr. Leich responded that the nursing home associations have been talking with FSSA since the reimbursement rate freeze was proposed but that the compromise of using a negative inflation was proposed last week.

Mr. Bob Decker, Hoosier Owners and Providers for the Elderly, stated that he understands that there are budget constraints and that FSSA would be looking at reducing nursing home reimbursement, but that he was surprised by the mechanism of the rate freeze. Mr. Decker stated that he supports using the negative inflation as a compromise to the freeze.

Ms. Faith Laird, Indiana Health Care Association (IHCA), provided the Commission with a handout showing the proposed rate freeze's impact on nursing homes. See Exhibit 8. Ms. Laird stated that she did not support the freeze or any other proposal to change nursing home reimbursement. Ms. Laird commented that nursing homes have helped the state with the budgetary problems by agreeing to pay the quality assessment. IHCA did not participate in the discussions that resulted in the proposed negative inflation and has not seen the proposal in writing or had a chance to study the proposal.

Ms. Tina Waikel, Director of Nursing for Norwood Nursing Center in Huntington, Indiana, stated that a reimbursement freeze will affect both the quality of care of patients and the nursing home staff. Utility costs and food prices will be increasing this year. Ms. Waikel asked the Commission to consider options other than a reimbursement freeze.

Secretary Roob stated that FSSA will look at alternative proposals by IHCA but that the proposals cannot be depended on to save money in this fiscal year. Indiana committed to the federal Centers for Medicare & Medicaid Services (CMS) that the closure and conversion fund created by the quality assessment fee would be used for that purpose. Secretary Roob believes that CMS would look unfavorably on the state changing the use of the funds already and that a change in the use of the fund could affect approval by CMS of future Medicaid waiver requests.

In response to a question concerning the short time that DD waiver providers have to implement changes to the program, Secretary Roob stated that many waiver providers knew before the September 15th announcement that changes were going to occur. If a provider does not think that the provider can meet the November 1 date to make changes, the provider should notify FSSA as soon as possible.

Proposed Legislation

Cash and Counseling Waiver Request- PD 3076

Representative Frizzell informed the Commission that he has carried this legislation for a couple of years. The legislation proposes seeking approval from CMS for the Cash and Counseling Waiver. Representative Frizzell stated that the legislation is cost neutral, as required in order to receive approval by CMS for a waiver. The Commission requested additional information on the waiver. Ms. Melissa Durr stated that other states who have implemented this waiver have allowed respite for caregivers. The legislation is cost controlled and based on hospice reimbursement.

Mr. John Okeson, FSSA, stated that FSSA has concerns with how the waiver would be implemented and whether legislation is necessary. However, Mr. Okeson stated that FSSA supports the concept of the legislation. Although the waiver itself is fiscally neutral, applying for the waiver and implementing the waiver has administrative costs.

Mr. John Cardwell stated that he supports the concept of the legislation. Paralyzed Hoosier veterans have strong support for this legislation.

The Commission did not take action on the proposed draft.

Life Insurance and Medicaid- PD 3198
Representative Tim Brown stated that he authored this bill last year and the bill passed, but the Governor vetoed the bill. The bill allows the state to take over payments of life insurance premiums from individuals seeking to receive Medicaid and the state would then receive the insurance proceeds. The state is not required to take over the payments. The concern last year was how CMS would look at the money paid to the state from the life insurance policy. FSSA will need to further consider this draft.

The Commission did not take action on the proposed draft.

Chairperson Miller stated that she is going to seek permission to have another Commission meeting, hopefully around Organization Day in November. The meeting was adjourned at 3:45 p.m.